



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 21, 2018
MAHS Docket No.: 18-008417
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 20, 2018, from Detroit, Michigan. The Petitioner represented herself. [REDACTED] also appeared on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by Tonya Turkelson, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's August 2018 application for Food Assistance Program (FAP) benefits and assess a 12-month divestment penalty?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 30, 2018, Petitioner, at the direction of her assigned case worker, removed her name from property owned jointly by herself and her son.
2. Petitioner applied for FAP benefits on [REDACTED], 2018 and [REDACTED], 2018.
3. On August 15, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for FAP benefits had been denied and that she was subject to a 12-month divestment penalty.
4. On August 15, 2018, Petitioner verbally requested a hearing to dispute the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Additionally, divestment means the transfer of assets for less than fair market value for any of the following reasons:

- To qualify for program benefits.
- To remain eligible for program benefits.

Transfer of assets means giving, selling or trading assets to an individual/someone other than an asset group member. This includes a change from sole to joint ownership. Divestment occurred:

- If an asset group member knowingly transferred assets during the three calendar months before the month of the application date.
- Knowingly transferred after the household is determined eligible for benefits. If divestment occurred, calculate a disqualification period. BEM 406 (October 2016), p. 1.

Further, the value of a divested asset(s) is the cash or equity the asset group member(s) would have received had they sold it for at or near its fair market value. *Id.* In this case, Petitioner testified that her assigned case worker informed her that she would need to have her name removed from her son's property to be eligible for FAP benefits. Under Department policy, real property is considered an asset. BEM 400 (May 2018), p. 2. The FAP asset limit is \$5,000.00 or less. BEM 400, p.5. The value of the home in which Petitioner had partial ownership was \$23,500. Thus, Petitioner's ownership value was \$11,750.00.

To determine the amount divested, the total countable FAP Asset is subtracted from the FAP Asset Limit. BEM 406, pg. 2. When Petitioner's ownership value of \$11,750.00 is subtracted from the FAP Asset Limit of \$5,000, the calculated amount divested is \$6,750.00. Because the calculated amount divested is greater than \$5,000.00, Petitioner is subject to a 12-month divestment penalty.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's application for FAP benefits and assessed a 12-month divestment penalty.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JAM/tlf



Jacquelyn A. McClinton
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Chalevoix-Hearing
BSC1 Hearing Decisions
L. Karadsheh
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]